

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, ex.)
rel. PHILLIP COX,)

Plaintiff,)

V.)

GENERAL DYNAMICS ARMAMENT)
AND TECHNICAL PRODUCTS,)

Defendant.)

4:07CV3264

MEMORANDUM AND ORDER

The plaintiff has moved for a 10-day continuance of the deadline for filing an amended complaint. Filing No. 50. The defendant opposes plaintiff's motion.

On January 6, 2010, the court granted the defendant's Rule 9(b) motion, and set a deadline requiring the plaintiff to file an amended complaint on or before January 29, 2010. The plaintiff's motion for additional time, filed on January 21, 2010, explains he went out of state on January 21, 2010 and will not return until January 30, 2010. The motion further states the plaintiff has provided more detailed information to defense counsel, and this information should satisfy the concerns raised in defendant's 9(b) motion.

The plaintiff's motion to continue does not explain why the amended complaint was not filed between January 6 and January 21, 2010, particularly where the plaintiff possessed, and apparently served on the defendant, the facts needed to plead with particularity in accordance with Rule 9(b). The plaintiff has not explained why he needs ten days following his return to prepare and file an amended complaint.

Accordingly,

IT IS ORDERED that the plaintiff's motion to continue, filing no. 50, is granted in part, and the plaintiff's amended complaint shall be filed on or before February 3, 2010.

DATED this 28th day of January, 2010.

BY THE COURT:

s/ Cheryl R. Zwart

United States Magistrate Judge